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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

CLERK US DISTRICT COURT

DISTRICT OF NEVADA

BY:

KMR

DEPUTY

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FILED
ENTERED
RECEIVED
SERVED ON
COUNSEL/PARTIES OF RECORD

Copy filed
MAR - 1 2017

JOSEPH MEZZONI

Plaintiff

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CASE No. 3:15-CV-00499-MMD-WGC

MOTION TO COMPEL DISCOVERY

VS.

STATE OF NEVADA et.al.,

C/O BRANNON / C/O SMITH

Defendants

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COMES Now, the plaintiff Joseph Mezzoni #68549
pro se, in the above entitled action respectfully submitting
his motion to compel Discovery. This motion is made and
based upon the provisions of rule 37(a) of the Federal Rules of
Civil Procedure.

In support of this motion the following points and
authorities are attached, as well as all pleadings and documents
on file herein.

Points and Authorities

I

Statements of the Case

The plaintiff Joseph Mezzoni has filed a civil rights action

-1-

STATEMENTS OF THE CASE

(continued)

1. alleging that the above named defendants are knowingly and
 2. unreasonably disregarding plaintiffs due process rights
 3. to the 14th Amendment for his 5-1-15 Disciplinary Hearing
 4. and found plaintiff guilty without his due process rights afforded
 5. to him by Nevada Dept of Corrections Administration Regulations
 6. 707 and under Wolff v. McDonnell, 418 U.S. 539, 94 S.Ct. 2963, 41
 7. L.Ed. 2d 935(1974). He was disciplined by a false disciplinary
 8. and then denied video, still pictures, witnesses and other related due
 9. process afforded to him by defendants. see; Marquez v. Mann, 192 A.D.-
 10. 2d 100, 600 N.Y.S. 2d 285 (3d Dept. 1993) (Failure of hearing officer to
 11. allow inmate to review video tape of incident in question at disciplinary
 12. hearing denied inmate his Constitutional right to answer the evidence,
 13. therefore the record of the incident should be expunged).
 14.
 15. The plaintiff contends that in order to effectively present his case,
 16. and motion for Summary judgment he must have access to his:
 17. medical records, (2) Video Tape of Units 5, 4, 8, 7 inside and out canvas on
 18. 3-28-15 at Northern Nevada Correctional Center at 7pm to 9pm, (3) Still pictures
 19. took on 3-28-15 with Canvas of plaintiff etc...,(4) Disciplinary Disk recorded
 20. of the 5-1-15 Disciplinary Hearing with Lt Brannon; (5) All Officers Reports
 21. as witnesses and participants to the disciplinary on the night of 3-28-15
 22. at (NNCC) Prison. (6) All witnesses reports and Affidavits sent to IG Office of
 23. inmates in Unit 5 on 3-28-15 at (NNCC) Prison. My dad sent Affidavits of
 24. inmates who witnessed to the T6 office in Carson City to Officer Mr Moore
 25. who interviewed plaintiff a week after 3-28-15. (6) Any and All other evidence
 26. papers and material facts to this case to compel Discovery and afford copies
 27. to plaintiff.

1.

Legal Argument

2.
3. The law has been established that the District Court
4. has wide discretion in controlling discovery. See; Blackburn v. U.S.
5. 100 F.3d 1426 (9th Cir. 1996).

6. The Plaintiff has attempted to see all this evidence
7. at his disciplinary on 5-1-15 and was denied and told by
8. Disciplinary C/o Brannon hearing Officer that you not allowed
9. to see; Video or get any more witnesses. See; 5-1-15 Disciplinary
10. recording tape. But on the other hand Warden Ms Walsh
11. states on her responds to Plaintiff's Inmate Request Form
12. dated 4-5-15 at (MCC) Prison that; She would adhere to the
13. process. Plaintiff specified Video/still pictures, Inmate Witnesses
14. on that write, which is ~~that~~ attached to Plaintiff's
15. First Amended Complaint (last PAGE).

16. The relevant standard for discovery is to be considered
17. broadly to include any matter that bears on or that could
18. reasonably lead to other matter that could bear any issues that
19. may be in the case. See; Pagano v. Oroville Hosp. 145 F.R.D 683
20. (E.D Cal. 1993) The plaintiff respectfully request that the defendants
21. provide him with copies of his medical records from 3-28-15 to
22. present after care and x-rays, and all other discovery Video, still pics,
23. witnesses, Officers reports, Disciplinary Disc on 5-1-15 for 3-28-15
24. incident and any and all other related evidence so he can file
25. an effective motion for summary judgment and prepare his case
26. appropriately. Generally, the purpose of discovery is to remove surprise
27. from trial preparation so parties can obtain evidence necessary to
28.

Legal Argument (Continued)

2. evaluate and resolve their dispute. See, U.S. v. City of
3. Torrance, 164 F.R.D. 493 (C.D. Cal. 1995). Plaintiff need all this
4. discovery to show the Court/Jury that plaintiff was pushed prior to discipline
5. and due process denied. III

Conclusion

Wherefore, in light of the foregoing, the plaintiff
prays that this Honorable Court issue an order
compelling the defendants to comply with the
plaintiff's discovery requests.

RESPECTFULLY SUBMITTED

This 19th day of February, 2017

BY: Joseph May

✓ Joseph L. Mizzoni
#68549

1 AFFIDAVIT OF JOSEPH MEZZONI #68549 PRO-SE
2 (STATE OF NEVADA)

3 ; SS
4 CLARK COUNTY)

5
6 (1) Plaintiff sworn in support of the Motion and says;
7

8 (2) Plaintiff in Pro-se/Joseph Mezzoni #68549 in Support of
9 this affidavit here for a "MOTION TO COMPEL DISCOVERY"
10 for this case # 3:15-cv-00499-MMD-WGC on his §1983
11 Civil Rights Complaint PURSUANT TO 42 USC §1983. IN THE
12 UNITED STATES DISTRICT COURT DISTRICT OF NEVADA
13 and does so in a truthfull manner under 28 USC §1746 and
14 NRS Laws of perjury and penality.

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16 RESPECTFULLY SUBMITTED
17 this 19th day of February 2017

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19 BY: Joseph Mezzoni
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Joseph Mezzoni
#68549

51. CERTIFICATE OF MAILING BY U.S. MAIL

2. I, Joseph Mizzoni #68549, hereby certify pursuant
 3. to 28 USC §1746 that on this 19th day of February, 2017 I
 4. mailed a true correct copy of the foregoing " MOTION TO
 5. COMPEL DISCOVERY" and by giving it to a prison guard at
 6. High Desert State Prison and by giving it to a prison guard
 7. by box slip # 1610497 sealed and postage prepaid and
 8. addressed to:

9. (1) CLERK, U.S. DISTRICT COURT

10. DIRECTOR OF NEVADA

11. 400 SOUTH VIRGINIA STREET, Room 301
12. RENO, NEVADA 89501

(2) OFFICE OF ATTORNEY

GEN/NEV.

100 N. CARSON STREET
CARSON CITY, NV. 89701-
14. -4717

15. (3) ADDRESS OF PLAINTIFF

16. JOSEPH MIZZONI #68549

17. H.D.S.P.

18. PO Box 650

19. INDIAN SPRINGS, NV. 89070

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BY: Joseph Mizzoni
 JOSEPH MIZZONI
 #68549